UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA, : CASE NO. 1:14-CR-00185

:

Plaintiff,

vs. : ORDER & OPINION

[Resolving Doc. No. 45]

KENNETH A. WHITE,

:

Defendant.

:

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Defendant Kenneth A. White moves to withdraw a guilty plea entered on August 18, 2014. The motion is **GRANTED**.

Rule 11(d) of the Federal Rules of Criminal Procedure provides that a district court may permit a guilty plea to be withdrawn before sentence is imposed if "the defendant can show a fair and just reason for requesting the withdrawal." The factors the district court may consider in evaluating whether the defendant has met this standard include:

(1) the amount of time that elapsed between the plea and the motion to withdraw it; (2) the presence (or absence) of a valid reason for the failure to move for withdrawal earlier in the proceedings; (3) whether the defendant has asserted or maintained his innocence; (4) the circumstances underlying the entry of the guilty plea; (5) the defendant's nature and background; (6) the degree to which the defendant has had prior experience with the criminal justice system; and (7) potential prejudice to the government if the motion to withdraw

 $<sup>\</sup>frac{1}{2}$ Doc. 45.

 $<sup>\</sup>frac{2}{2}$ Doc. 39.

<sup>&</sup>lt;sup>3/</sup>Fed. R. Crim. P. 11(d)(2)(B).

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Gwin, J.

is granted.  $\frac{4}{}$ 

These factors are "a general, non-exclusive list," with no one factor being "controlling." 5/

This Court finds that a short amount of time has elapsed between the plea and the motion to withdraw the plea. The Court further finds a valid reason for the withdrawal of Defendant's plea, as Defendant has articulated a desire to go to trial on the charges against him. This Court considers the Defendant's assertion of guilt or innocence to be a less important factor in determining whether to grant the present motion. The Court finds no aggravating circumstances regarding the entry of the plea: the prior plea colloquy was appropriate and Defendant's counsel has adequately represented Defendant. This Court finds that the Defendant has considerable prior experience with the criminal justice system. Finally, the Court does not find prejudice to the Government based on the withdrawal of the guilty plea. Therefore, Defendant's motion to

IT IS SO ORDERED.

withdraw his plea is **GRANTED**.

Dated: August 29, 2014 James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

<sup>&</sup>lt;sup>4</sup>/United States v. Bazzi, 94 F.3d 1025, 1027 (6th Cir. 1996).

 $<sup>\</sup>frac{5}{1}$ Id.